



As set forth on the record, such motion is denied as the rights to the funds in the Investor Account will be determined in connection with an Interpleader action.

Entered on Docket  
June 19, 2006

Hon. Linda B. Riegle  
United States Bankruptcy Judge

Annette W. Jarvis, Utah Bar No. 1649  
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Proposed Attorneys for Debtors and Debtors-in-Possession

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA**

In re:  
USA COMMERCIAL MORTGAGE COMPANY,  
Debtor.

In re:  
USA CAPITAL REALTY ADVISORS, LLC,  
Debtor.

In re:  
USA CAPITAL DIVERSIFIED TRUST DEED FUND, LLC,  
Debtor.

In re:  
USA CAPITAL FIRST TRUST DEED FUND, LLC,  
Debtor.

In re:  
USA SECURITIES, LLC,  
Debtor.

Case No. BK-S-06-10725 LBR  
Case No. BK-S-06-10726 LBR  
Case No. BK-S-06-10727 LBR  
Case No. BK-S-06-10728 LBR  
Case No. BK-S-06-10729 LBR  
Chapter 11  
Jointly Administered Under  
Case No. BK-S-06-10725 LBR

**ORDER DENYING MOTION FOR  
ORDER AUTHORIZING RETURN OF  
NON-INVESTED FUNDS OF JASPER  
BENINCASA JR. AND FLOCERFIDA  
BENINCASA**

Affects:

- ☒ All Debtors
- ☐ USA Commercial Mortgage Company
- ☐ USA Securities, LLC
- ☐ USA Capital Realty Advisors, LLC
- ☐ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA First Trust Deed Fund, LLC

Date: June 5, 2006

Time: 9:30 a.m.


The Motion For Order Authorizing Return Of Non-Invested Funds Of Jasper Benincasa, Jr. And Flocerfida Benincasa (the "Motion") having come before this Court on June 5, 2006; the Debtors, USA Commercial Mortgage Company ("USACM"), USA Securities, LLC ("USA Securities"), USA Capital Realty Advisors, LLC ("USA Realty"), USA Capital Diversified Trust Deed Fund ("USA Diversified"), and USA Capital First Trust Deed Fund ("USA First") (collectively referred to as "Debtors") appearing by and through their counsel, Ray Quinney & Nebeker P.C. and Schwartzter & McPherson Law Firm; there being no appearance by the moving party, Jasper Benincasa, Jr. and Flocerfida Benincasa, it is hereby

ORDERED that the Motion For Order Authorizing Return Of Non-Invested Funds Of Jasper Benincasa, Jr. And Flocerfida Benincasa is hereby denied without prejudice.

Submitted by:

Annette W. Jarvis, Utah Bar No. 1649  
 RAY QUINNEY & NEBEKER P.C.  
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and

  
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SCHWARTZER & MCPHERSON LAW FIRM  
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 Tel: (702) 228-7590 - Fax: (702) 892-0122

**ORDER DENYING MOTION FOR ORDER AUTHORIZING RETURN OF NON-INVESTED FUNDS OF JASPER BENINCASA JR. AND FLOCERFIDA BENINCASA**

Approved/Disapproved by:

Approved/Disapproved by:

OFFICE OF THE U.S. TRUSTEE

By:

August L. Laddis, Esq.  
Scott Farrow, Esq.

Jasper Benincasa, Jr.  
Flocerfida Benincasa  
9359 Roping Cowboy Avenue  
Las Vegas, NV 89178

Approved/Disapproved by:

Approved/Disapproved by:

STUTMAN TREISTER & GLATT and SHEA  
& CARLYON, LTD.

GORDON & SILVER, LTD

By:

Frank A. Merola, Esq.  
Christine Pajak, Esq.  
Counsel for the Official Committee of  
Equity Security Holders of USA Capital  
First Trust Deed Fund LLC

By:

Gerald M. Gordon, Esq.  
Gregory E. Garman, Esq.  
Counsel for Official Committee of  
Holders of Executory Contract Rights of  
USA Commercial Mortgage Company

Approved/Disapproved by:

Approved/Disapproved by:

ORRICK, HERRINGTON & SUTCLIFFE  
LLP

LEWIS AND ROCA, LLP

By:

Mark A. Levinson Esq.  
Lynn Trinka Ernee, Esq.  
[Proposed] Counsel for the Official  
Committee of Equity Security Holders of  
USA Capital Diversified Trust Deed  
Fund LLC

By:

Susan M. Freeman  
Rob Charles  
[Proposed] Counsel for Official  
Committee of Unsecured Creditors of  
USA Commercial Mortgage Company

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3 Approved/Disapproved by:

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5  
 6 By: \_\_\_\_\_

7 August Landis, Esq.  
 8 Scott Farrow, Esq.

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 Floerfida Benincasa  
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 Las Vegas, NV 89178

9 Approved/Disapproved by:

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10 STUTMAN TREISTER & GLATT and SHEA  
 11 & CARLYON, LTD.

GORDON & SILVER, LTD

12 By: *Frank A. Merola*

13 Frank A. Merola, Esq.  
 14 Christine Pajak, Esq.  
 15 Counsel for the Official Committee of  
 Equity Security Holders of USA Capital  
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By: \_\_\_\_\_

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 Counsel for Official Committee of  
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20 Mark A. Levinson Esq.  
 21 Lynn Trinka Ernce, Esq.  
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By:

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By:

*RG 6593*  
Susan M. Freeman  
Rob Charles  
[Proposed] Counsel for Official  
Committee of Unsecured Creditors of  
USA Commercial Mortgage Company

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1 In accordance with LR 9021, counsel submitting this document certifies as follows (check one):

2 ☐ The court has waived the requirement of approval under LR 9021.

3 ☐ No parties appeared or filed written objections, and there is no trustee appointed in the case.


4 XX I have delivered a copy of this proposed order to all counsel who appeared at  
5 the hearing, any unrepresented parties who appeared at the hearing, and any trustee  
6 appointed in this case, and each has approved or disapproved the order, or failed to  
7 respond, as indicated below [list each party and whether the party has approved,  
disapproved, or failed to respond to the document]:

8 **The order was sent to Jasper and Flocerfida Benincasa on June 8, 2006. As of**  
9 **the date of this filing, no response has been received.**

10 Submitted by:

11 Annette W. Jarvis, Utah Bar No. 1649  
12 RAY QUINNEY & NEBEKER P.C.  
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14 P.O. Box 45385  
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18 Lehard E. Schwartz, Esq.  
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